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Attorneys for Defendants
MARRIOTT INTERNATIONAL, INC.
(Erroneously sued herein as Marriott of San
Francisco) and SAM SNOWDEN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD E. WILMSHURST,
Plaintiff,

v.

MARRIOTT OF SAN FRANCISCO, SAM
SNOWDEN, IGNATIUS CHINN,
WILLIAM LOCKYER, BLAKE
GRAHAM, LEE CAREAGA, JOHN
MARSH, and KISU YO AND DOES 1
through 100,
Defendants.

Case No. C-07-03790 WHA

**[PROPOSED] ORDER GRANTING THE
MOTION OF DEFENDANTS MARRIOTT
INTERNATIONAL, INC. AND SAM
SNOWDEN TO DISMISS PURSUANT TO
FRCP 12(b)(5) and 12(b)(6)**

Date: January 17, 2008
Time: 8:00 a.m.
Courtroom: 9
Judge: Hon. William H. Alsup

The motion of Defendants MARRIOTT INTERNATIONAL, INC. and SAM SNOWDEN for an order dismissing the Complaint pursuant to FRCP 12(b)(5) and 12(b)(6) came on for hearing on January 17, 2008. Defendants appeared through GayLynn Kirn Conant of Lombardi, Loper & Conant, LLP, and Plaintiff, Richard E. Wilmshurst appeared in propria persona. The Court, having read and considered the motion and supporting papers, opposition papers and good cause appearing:

IT IS HEREBY ORDERED that the motion is GRANTED and the action is hereby dismissed on the following grounds:

as summons and complaint were not properly served on defendant within 120 days of the filing

- The Complaint is dismissed with prejudice pursuant to Federal Rule of Civil Procedure 4(m) and 12(b)(5) as Plaintiff failed to timely serve Marriott and Mr. Snowden within 120 days of the filing of the Complaint;
- The 1st Cause of Action for violation of 42 U.S.C. §1983 is barred by the applicable two year statute of limitations;
- The 1st Cause of Action for violation of 42 U.S.C. §1983 is barred as Plaintiff has failed to state fact sufficient to constitute a cause of action against Marriott or Mr. Snowden;
- The 2nd Cause of Action for Conspiracy is barred by the applicable two year statute of limitations set forth in California Code of Civil Procedure §335.1;
- The 2nd Cause of Action for Conspiracy is barred as Plaintiff has failed to state fact sufficient to constitute a cause of action against Marriott or Mr. Snowden;
- The 3rd Cause of Action for “allowing Richard to be falsely arrested and participated in the arrest” is barred by the applicable two year statute of limitations set forth in §335.1;
- The 3rd Cause of Action for “allowing Richard to be falsely arrested and participated in the arrest” is barred as Plaintiff has failed to state fact sufficient to constitute a cause of action against Marriott or Mr. Snowden.

The Complaint is hereby dismissed with prejudice.

IT IS SO ORDERED.

DATED: January ___, 2008

HON. WILLIAM H. ALSUP